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## AN AUTOGRAPH RESPONSUM OF MAIMONIDES

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DESPITE the great popularity enjoyed by Maimonides, a considerable portion of his works still awaits scientific treatment. Some of his responsa have long been known in a poor Hebrew translation made by Mordecai Tama,<sup>1</sup> and although the Arabic original has happily been preserved, only a few of them have hitherto been published in that language.<sup>2</sup>

These responsa, even in the faulty Hebrew translation, are of great importance from many points of view. They contain valuable material for the study of Halakah. The historian will find in them a reflection of that period which was one of the most active in the development of Jewish life. They are also of some interest to the student of Jewish-Arabic, as Maimonides, his ungrammatical construction notwithstanding, is one of the best writers in that dialect. For even this short responsum contains a peculiar expression which is unknown in the works of other writers.<sup>3</sup> It is therefore to be hoped that the entire collection of these responsa, the manuscript of which is at present, I believe,

<sup>1</sup> *Pe'er ha-Dor* (Amsterdam, 1765) and *Ḳobeṣ Teshubot ha-Rambam* (Leipsic, 1859).

<sup>2</sup> See Geiger, *Melō Hofnayim*, pp. 54-80; G. Margoliouth, *JQR.*, XI, pp. 534-550; I. Friedlaender, *JQR.*, New Series, V, pp. 1-15. Margoliouth edited twelve responsa, two of which were autographs.

<sup>3</sup> See below, note 9.

in the possession of Dr. Simonsen of Copenhagen,<sup>4</sup> will be edited as soon as possible.

The autograph responsum herewith published is not included in the *Pe'er ha-Dor* and *Ḳobeš Teshubot ha-Rambam*, but I cannot say with certainty whether it is found in the Arabic collection or not. It comes from the Cairo Genizah, and is now stored up in the library of the Jewish community of that city. A photographic reproduction of it was sent by Mr. Jack Mosseri to President Schechter, who was kind enough to hand it over to me for publication. For this act of courtesy I beg to express my most cordial thanks.

The manuscript is undated, and the name of the person who addressed the inquiry to Maimonides is not given. Two questions, akin to one another, are asked in this letter. Two litigants reside in different cities, and the plaintiff desires to have a representative appointed to take his part. Should this request be granted to him according to the Jewish law, or not? Then, what is the law in the case they both reside in one and the same city?

Maimonides in his trenchant and precise manner replies that according to the Talmud the Rabbis considered such a procedure blameworthy. A representative should only be appointed when the plaintiff is prevented from coming to court through illness, or because he resides in another city, or on account of a similar cause. Otherwise both litigants must personally appear in court.

Incidentally this decision throws light upon a statement made by Maimonides in his *Code*. In *Hilkot Sheluḥim* 3, 5 he asserts that a power of attorney is illegal. R. Abraham

<sup>4</sup> Comp. *JQR.*, XII, p. 134.

b. David in his *Refutations* remarks that this prohibition applies only to the case when both litigants reside in one and the same town, and are able to come personally to court. This responsum proves that Maimonides meant his decision to be understood in that way.

The manuscript is here reproduced with all its peculiarities. It is to be observed that Maimonides uses diacritical marks, while the inquirer disregards them entirely. My Hebrew translation follows the original as closely as the Hebrew idiom allows.

## ARABIC TEXT

Recto.

[מא ת] קול הדרת יקרת צפירת תפארת מ[ר]נא ורבנא  
 משה הרב הגדול בישראל ישמרה<sup>5</sup> אלהינו ויברכה  
 פי שבצין מן ישראל קויין סויין לאחדהמא ענר א[ל]  
 אבר חק וכל מנהמא סאכן פי בלד<sup>6</sup> טלב אלואחד  
 5 מנהמא יוכל<sup>7</sup> לה וכל עלי אסתכלאץ חקוקה מן  
 אלאכר הל יוגב לה אלשרע דלך אם לא ואן כאנא  
 נמיעא סכאן פי מדינה ואחדה ואראד אלמאלב  
 אן יוכל לה וכל יכאצם ענה וינאזע ויסתכלץ  
 חקוקה הל לה דלך אם לא תפתינא הדרת אדוננ[ו]  
 10 במוגב אלשרע פי דלך ושכרה כפול מן השמים

<sup>5</sup> The pronominal suffix is Arabic, while the word is Hebrew. The same is the case with ויברכה (recto, l. 2) and ושכרה (l. 10).

<sup>6</sup> This is hardly explicit. The writer wishes to say *in different cities*. Maimonides (verso, l. 1) is more explicit.

<sup>7</sup> The omission of אן after טלב and similar verbs is quite common in Jewish-Arabic, as well as in post-classical texts of general Arabic.

## אלנואב

אלוכאלה מדמומה לקולהם<sup>8</sup> ואשר לא טוב  
 עשה וכו' זה הבא בהרשאה וכן אלגיר  
 ילחן<sup>9</sup> ען צאחבה בחגנה מנהי נדא  
 15 עלי מא שהר מן הרובחם מן ערכי הדיינים  
 ובחסב היה אלמקדמא<sup>10</sup> לא ינוז ענדי  
 אן יוכל וכל אלא לצורה אמא לכן

Verso.

אלטאלב פי בלד ואלמטלוב פי  
 בלד אכר או לכן אלטאלב מריץ  
 או מא אשבה דלך מן אלאעדאר  
 אמא בארתפאע אלאעדאר<sup>10</sup> פלא  
 5 ונה ללוכאלה בל יחצר אלכצמאן  
 לבית דין אד ולא מאנע לאחרהמא  
 וכתב משה.

## HEBREW TRANSLATION

Recto.

מה תאמר הדרת יקרת צפירת תפארת מרנא ורבנא  
 משה הרב הגדול בישראל ישמרוהו אלהינו ויברכהו  
 בדבר שני אנשים מישראל השווים בחזקתם, ויש לאחד מהם  
 משפט אצל חברו, וכל אחד מהם דר בעיר אחרת, והאחד מהם

<sup>8</sup> Shebu'ot 31 a.

<sup>9</sup> ילחן is to be construed with בחגנה. It is fourth conjugation, and denotes *he makes clear, explains*. This construction with its peculiar meaning is nowhere else recorded. ען signifies *for, in behalf of*. Comp. the expression *נאב עני* *he represented me*. See also Wright, *Arabic Grammar*, II, p. 139 D.

<sup>10</sup> The omission of the dot over ך is due to an oversight.

5 בקש למנות לו מרשה שיוציא את המגיע לו  
 מחברו; האם מצריך הדין את הדבר הזה או לא? ואם שניהם היו  
 דרים יחדו בעיר אחת, ובקש התובע  
 למנות לו מרשה שיטען וישפט בשבילו ויוציא  
 את המגיע לו מחברו, היוכל לעשות כזה או לא? תבאר לנו הדרת אדוננו  
 10 את חיוב הדין בזה ושכרו כפול מן השמים.

### התשובה.

ההרשאה מננה, כמו שאמרו: "ואשר לא טוב  
 עשה זה הבא בהרשאה." ואסור חמור  
 הוא לאיש אחר לברר את טענותיו בשבילו,  
 15 כמו שידוע שברחו חכמינו מערכי הדינים.  
 ועל פי ההקדמות הללו אסור, לפי דעתנו,  
 למנות מרשה, אלא כשיש הכרח בזה, כגון שהיה

### Verso.

התובע בעיר אחת והנתבע בעיר  
 אחרת, או כשהיה התובע חולה,  
 וכיוצא בזה מן האמתלאות.  
 אבל כשאין שום אמתלא כזו, אין  
 5 מקום להרשאה; אלא שני בעלי הדין יבואו  
 לבית דין, הואיל ואין מניעה לאחד מהם.  
 וכתב משה.